

Before the Senate Commerce and Indian Affairs Committees

Testimony of Mike Strand

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Good Morning. I would like to thank the Committees for allowing me this time to offer my observations with respect to the deployment of basic and advanced telecommunications services to Native Americans.

I represent five small rural telephone companies operating in Montana. They range in size from about 5,000 lines to about 10,000 lines. Their service areas include four Indian reservations: Fort Peck, Fort Belknap, Rocky Boy and Crow. Our companies are quite progressive, offering DSL services to nearly 60 towns with populations under 2,000.

Reservation areas are a challenge for us. Our most current information is that the average per capita income on the reservations we serve is approximately \$8,000 per year. Many residents, particularly the elderly, do not speak English. Many others have lived their entire lives without telephone service and are not interested in the service regardless of price. Finally, there is an understandable mistrust of programs and projects offered by non-Indians.

We have rigorously reviewed our operating policies and procedures to address these challenges. These efforts have been quite successful, a point on which I will provide greater elaboration in just a moment.

While we are primarily wireline providers, we love the attributes of wireless service for particular applications. Where a customer's primary need is to make a mobile voice communication, there is no better solution than cellular or PCS.

That said, we are far less enamored of wireless as a universal service offering, particularly in rural areas. Our view of a universal service offering is that it is the solid, reliable connection to the national network for people in remote areas. It needs to work in bad weather and when there is a power outage. It needs to work regardless of the vagaries of terrain and line-of-sight. When calling outside their local community, users need to be able to select an affordable long distance provider, and they need to know that they can get a reliable connection to the Internet at a reasonable speed. Generally speaking, wireline service has these attributes and wireless service does not. That is why we continue to believe that wireline service is the best universal service offering in rural Montana.

This brings me to the problems inherent in the current FCC approach to ETC designation.

The first problem is one of process. At the FCC, an application is filed, interested parties can file comments, and the application is either granted or denied. There is no hearing. There is no opportunity for discovery. There is no opportunity for cross-examination.

Why is this a problem? As an example, we operate a cellular company in northern Montana called Sagebrush Cellular. It has not applied for ETC status.

Another cellular provider in the same area did apply to our state public service commission for ETC designation. The provider claimed to provide service to all locations in the area, which is roughly the size of the state of West Virginia. It has three towers. Sagebrush Cellular has 22 towers, using the same type of equipment and providing the same service throughout the same area. Nonetheless, there are still almost 5% of the homes and businesses in the area that Sagebrush does not reach. In our view, the applicant's coverage claims were highly improbable at best.

However, had the application been processed by the FCC, there would have been no opportunity to ask the provider's engineers what miracle they had performed to reach more customers with three towers than we could reach with 22. Fortunately for the area and for the federal Universal Service Fund, the state public service commission's process included such opportunities to delve beneath the surface of the application, and the application was ultimately withdrawn.

Another problem is the FCC's current funding rules for universal service. The FCC's definition of universal service is extremely basic. The companies I represent provide service that exceeds the FCC's definition by a wide margin. To do so, they incur costs. The FCC has decided that a competitive ETC is to receive support based on the incumbent's costs. So a competitive ETC's incentive is to spend just enough on service to meet the FCC's definition and then receive support based on the incumbents costs of providing service. Faced with that situation, an incumbent has little choice but to reduce the quality of its service so it can match the competitor's costs and, by extension, its prices. This drives service quality in rural America to a lowest common denominator. We find this deeply troubling.

The FCC has, in at least one case, decided to preempt state commission jurisdiction with regard to ETC designation on Indian reservations. The Supreme Court has made clear that state law is not to be preempted unless specifically authorized by Congress or where state regulation would interfere with tribes' rights to govern themselves. Congress has not specifically granted the FCC authority over ETC designation on reservations. Further, since the effect of FCC preemption is to move the decision from the state commission to the FCC, this is not a case where the tribe is allowed to govern itself in this regard. The appropriate decision-maker is the state public service commission that has regulated rates and service quality for decades.

On a final note, I would like to briefly describe a company called Project Telephone Company. Project purchased all but one of the telephone exchanges on the Crow Indian Reservation from U S WEST in 1994. Telephone service to the Crow at that time was abysmal. Subscribership was approximately 50%. The equipment and facilities were antiquated, and customer service was practically non-existent.

Project immediately invested millions of dollars in new digital switching equipment, fiber optics, and new copper plant. We implemented new construction policies so that any home or business located within 1 mile of one of our lines could get service with no construction charges. Formerly, many Crow had been told they would have to pay thousands of dollars to get service. We hired Crow-speaking customer service representatives and field technicians to do hook-ups. A tribal member was appointed to our Board of Directors. We made dial-up Internet available to every customer and DSL available to nearly two-thirds of the tribal members. We expanded the local calling area so the reservation could call Montana's largest city without incurring toll charges. Finally, we aggressively pushed the enhanced Lifeline and Link Up programs to those that were eligible. Of the 1,423 residential lines on the Crow Reservation, 490 (or 34%) of the lines are enrolled in the enhanced Lifeline program that makes local service available for \$1 per month.

Not surprisingly, subscribership grew. In eight years, it has increased from 50% to nearly 85% and continues to grow. Under current FCC rules, if a competitor now decides to file for ETC designation, that competitor will jeopardize the viability of Project's service improvements on the Crow Reservation. Nonetheless, a competitor that meets all of the legal requirements for designation has the right to be designated. We simply believe that the decision-maker should be the state commission that knows the difference between the service that existed before and the service that exists today.

I have tremendous admiration and respect for people I have met at the FCC. There is a lot of brain power over there and their intentions are good. But they cannot fully appreciate the local circumstances in communities 2,500 miles away, and their investigative processes are not designed to allow them to do so.

Thank you again for giving me this opportunity to present my views. I would be happy to respond to questions.

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